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SIPDIS

DEPARTMENT FOR SCA/FO DAS GASTRIGHT, SCA/A
STATE PASS TO USAID FOR AID/ANE, AID/DCHA/DG
NSC FOR HARRIMAN
OSD FOR KIMMITT
CENTCOM FOR CG CFC-A, CG CJTF-76 POLAD
EMBASSY PARIS PASS TO USMISSION TO UNESCO

SENSITIVE, SIPDIS

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TAGS: [MCAP](#) [MOPS](#) [PREL](#) [PGOV](#) [PTER](#) [PHUM](#) [AF](#)
SUBJECT: NEW DRAFT OF AFGHAN MEDIA LAW SMACKS OF
GOVERNMENT CONTROL

Summary

1. (SBU) The Afghan Parliament's Committee on Religious and Cultural Affairs has circulated draft language amending the Afghan Mass Media Law (Media Law) - adopted by Presidential Decree in 2005 but never approved by Parliament - that troubles many in the Afghan media and international community. The new draft reflects increasing support within the GOA and Parliament for greater restrictions placed on media content and an overall climate of potential government intimidation and media self-censorship. Worrisome elements within the latest draft include: language that seeks to keep Radio-Television Afghanistan under the rubric of the GOA, rather than converting it to independent Public Service Broadcasting; the elimination of three committees that protected journalists from politically-motivated reprisals; and the designation of certain categories of content as "prohibited". Proponents of greater government control of the Afghan media point to its vulnerability to Taliban manipulation for spreading anti-government propaganda and recent broadcasts - especially of music and dance - that run counter to conservative cultural values in Afghanistan. There is some agreement among the international community that the Afghan media has acted irresponsibly, especially with regard to fact checking; but most advocates of independent media stress the need to distinguish between a free, yet regulated independent media and one controlled by the government. End summary.

GOA Elements Put Forward More Conservative Media Law

2. (SBU) The Afghan Mass Media Law (Media Law) was originally adopted in December 2005 by Presidential Decree but has yet to be approved by the Wolesi Jirga

(WJ), lower house of Parliament. That version of the Media Law was considered a reasonably moderate, progressive document that sought to develop a regulatory environment for a free, healthy media. Sometime over the last two months, however, a new version (herein referred to as the November 2006 version) of the Media Law was drafted and circulated around the Afghan Parliament. It is believed that the Minister of Information and Culture, Abdul Kharim Khuram, and the Parliament's Commission on Religious and Cultural Affairs, led by Haji Mohammad Mohaqqueq, are behind the new draft.

¶3. (SBU) It is unclear whether President Karzai is somehow connected to efforts to circulate the November 2006 draft. Contacts within the international community have heard that the newest version was drafted on behalf of the GOA and that the GOA has pressured members of Parliament to present it as their own idea, rather than that of the GOA. There were rumors that those behind the November 2006 draft sought to push that version through Parliament before the December 6 start of Parliamentary recess. Lobbyists from the local journalist community met with Wolesi Jirga (WJ) Speaker, Younis Qanooni, who gave assurances that the Media Law would not be voted on prior to the December Parliamentary recess.

More Government Control; Less Protection for Reporters

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¶4. (SBU) There are three main areas of concern arising from the November 2006 draft Media Law: (1) its determination that Public Service Broadcasting (PSB) would essentially function under the GOA; (2) its elimination of three independent commissions laid out in the December 2005 draft that were designed to ensure a degree of independence for media outlets and protect journalists from reprisals by influential politicians; (3) language that creates an overall climate of government control and intimidation as well as self-censorship of the media.

¶5. (SBU) Article 19 of the November 2006 draft stipulates that "the National Radio and Television of Afghanistan (RTA) is a mass media belonging to the Afghan nation that functions within the structure of Ministry of Information and Culture, and its programs, except advertisements, shall be broadcasted free of charge," essentially modeling RTA after a PSB network - but one that is controlled by the GOA, not an independent media outlet. EU countries are particularly concerned about this addition to the latest draft, as they had pledged several million euros toward developing Radio-Television Afghanistan (RTA) into an independent PSB network. They have shared informally that such funding would be withdrawn if RTA does in fact turn into a government-run media outlet.

¶6. (SBU) Another point of contention is the elimination of three commissions designed to protect the independence of media outlets and protect journalists from reprisals by influential politicians. These include:

- ¶I. The Commission on Media Complaints and Offenses - designed to be a mediating body that evaluates complaints against media outlets or specific journalists. The commission would only refer a case to the courts if it could not be effectively mediated by this commission. It essentially

worked to protect media outlets and journalists critical of the GOA from reprisal by influential politicians.

II. RTA (Radio-Television Afghanistan) Commission - Comprised of a religious scholar, a lawyer, a professional engineer, two professional journalists, two artists, one national trader and one representative of civil society, this commission promoted the involvement of non-governmental stakeholders in developing public radio and TV outlets in Afghanistan. There was a particular mandate to solicit international assistance in the development of RTA.

III. Bakhtar News Agency - designed to oversee the activities of the state run news agency which had to report on content to the Media High Council, another commission created in the Media Law which would be chaired by the Minister of Information and Culture.

17. (SBU) Lobbyists on behalf of independent media in Afghanistan note another problem within the law on the above-mentioned commission: a mandate that stipends for members of the commissions be paid by the Ministry of Information and Culture (MIC), rather than a separate budget established by Parliament. Payment by the MIC leaves members of the commission open to GOA intimidation.

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18. (SBU) Other elements of concern in the November 2006 draft work to create an overall climate of government control and possible intimidation as well as self-censorship of the media. These include the designation of five additional categories of "prohibited broadcasts" (the December 2005 draft had four). These now include any material that: is contrary to Islam; offensive to other religions and sects; jeopardizes stability, national security or territorial integrity (new); provides false information that might disrupt public opinion (new); publicizes or promotes any religion other than Islam (new); damages the physical, psychological, or moral well-being of the people, especially children and youth (new); discloses the identity of victims of violence and rape; is slanderous and insulting to people (new); constitutes false accusations or defamation. The law noticeably does not provide legal definitions for the terms slander, libel, or defamation, an omission which leaves journalists and media outlets vulnerable to broad misuse of the terms by anyone whom the media criticizes. Furthermore, independent media proponents have noted the addition of several lines indicating that public and private media must either "respect" or "adjust its programs" "in light of the principles and provisions of the holy religion of Islam." Many in the media point out that such clauses give the GOA broad grounds on which to manipulate the law to influence and control media content.

International Community Response

19. (SBU) To date, several members of the international community have weighed in with the GOA regarding their concerns about the November 2006 draft. On November 15, the European Union Special Representative, accompanied by representatives of the French, German and British Embassies, delivered a joint demarche to Minister Khuram, seeking his support

for media reform. Minister Khuram reportedly feigned a lack of influence and responded that he could not control how Parliament votes. Internews (an international advocacy NGO promoting independent media) and UNESCO have secured the blessing of Wolesi Jirga Speaker Qanooni to organize seminars educating members of Parliament, lawyers and mullahs on the value of free press. They are also considering launching a public information campaign to explain the concept of Public Service Broadcasting.

Distinction: Government-controlled vs. Regulated Media

¶10. (SBU) Increasingly, members of the GOA and Parliament see the need for government control of the Afghan media. They argue that (1) media outlets do not employ comprehensive fact checking and are thus manipulated by insurgents to disseminate propaganda; (2) unrestricted media coverage of insurgency activity encourages the Taliban; (3) private media outlets (especially through broadcasts of music and dance) are alienating a conservative population and giving further fuel to insurgent propaganda. One particular point of contention has been Tolo TV's decision to broadcast performances by Latin pop sensation Shakira, who is world renowned for her belly-dancing during performances. (Note: Lobbyists on behalf of independent media have convinced Tolo to stop airing Shakira's performances at least until the Media Law has been passed through Parliaments in hopes of

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quenching some of the public ire against a media viewed as being "too liberal." End note.)

¶11. (SBU) There is widespread acknowledgement among the International Community that media outlets have not been completely responsible with regard to fact checking. Many agree on the need to help the Afghan public and political leadership understand the difference between a free media that operates within a regulatory environment and one that is controlled by the government.

¶12. (SBU) Both the Parliamentary Committee on Religious and Cultural Affairs and President Karzai invited members of the Afghan media on December 3 to hear their concerns about the November 2006 draft of the law; however, many journalists felt toyed with after the Palace announced a meeting time on the morning of the event that started just 30 minutes after the Parliamentary meeting was scheduled, thus making it logistically impossible for invitees to attend both. This has fueled perceptions that the GOA at its highest levels is in cahoots with the Committee on Religious and Cultural Affairs to have this more conservative draft passed into law. Journalists who did attend the morning session with the Committee on Religious and Cultural Affairs reported that the committee seemed open to reinstating the Commission on Media Complaints and Offenses but did not receive any concrete feedback on their other concerns.

Post Action

¶13. (SBU) Post will weigh in with Minister of Information and Culture Khuram and the Parliament's Committee on Religious and Cultural Affairs to stress the value of a free and independent - yet regulated - Afghan media. Post will also continue consulting contacts within the international community and GOA, as well as Afghan media leaders, to assess how best to

influence President Karzai's stance on the issue.
Post will quietly press the GOA at its highest levels
to maintain protections for journalists in the draft
legislation and to create a regulatory environment for
a free, independent Afghan media.